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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,099	12/31/2003	Anees Narsinh	134170	1338
77216 7590 08/19/2009 ALCATEL-LUCENT C/O GALASSO & ASSOCIATES, LP P. O. BOX 26503 AUSTIN, TX 78755-0503				
EXAMINER				
SHIN, KYUNG H				
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2443				
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08/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/751,099

Applicant(s)

NARSINH ET AL

Examiner

Kyung Hye Shin

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE: 8-11-09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-11-2009 has been entered.
2. Claims **1 - 12** are pending. Claims **1, 2** have been amended. Claims **1, 2** are independent. File date is 12-31-2003.

Response to Arguments

- 3 Applicant's arguments have been fully considered but are moot due to new grounds of rejection.

The specification discloses on page 4 line 4-7 that a network access module is equivalent to a port for the input/output of network traffic. Figure 8 disclose that each MAC is connected to the physical communications layer by a port (211a, 211b). There is a plurality of physical layer interfaces for the switch disclosed in Figure 8. Each port comprises a MAC interface (Crinion col 5, ll 26-29) that performs high speed routing of network traffic. (Crinion col 8, ll 17-19)

Examiner feels Crinion discloses the configuration indicated by Applicant in Remarks.

There is no disclosure in the specification or original claims concerning the term,

"tree". There is no disclosure of a tree structure.

Claim Rejections - 35 USC § 103

The text of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1 - 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Crinion et al.** (US Patent No. 6,181,699) in view of **Hussain et al.** (US Patent No. 7,161,904).

Regarding Claim 1, Crinion discloses a data link layer processor comprising:

a plurality of media access controllers, wherein each media access controller is operatively coupled to a physical layer interface (Crinion Figure 8; col 5, ll 66-67; col 6, ll 66 - col 7, ll 3; col 8, ll 17-19; col 8, ll 34-37: MAC (Ethernet) access for data frames, input and output; interface to physical layer blocks; col 5, ll 42-47: packet buffer (MAC buffer))

Crinion does not explicitly disclose a traffic shaper.

However, Hussain discloses:

a traffic shaper: (Hussain col 4, ll 42-43; col 7, ll 36-39: ingress policing), including a first rate buffer (Hussain col 4, ll 44-50: col 7, ll 5-11: rate control based on the flow to which packet belongs (packet flow, packet buffering)), an ingress bus transmitter (Hussain col 8, ll 31-33; col 8, ll 38-41: ingress processor (transmitter)); an egress bus receiver (Hussain col 8, ll 31-33; col 8, ll 38-41: egress processor (receiver)), and a second rate buffer (Hussain col 4, ll 44-50:

col 7, ll 5-11: rate control based on the flow to which packet belongs (packet flow, packet buffering))

operatively coupled to said media access controllers for discarding one or more frames from a network processor that exceed one or more bandwidth parameters prior to transmission to the media access controllers; (Hussain col 9, ll 57-64; col 10, ll 14-16: discards frames that do not conform to bandwidth requirements, rate limit egress (output) flow: must drop packet prior to transmission to output queue or MACs)

It would have been obvious to one of ordinary skill in the art to modify Crinion for a traffic shaper and discarding one or more frames that exceed a bandwidth requirement as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment (Hussain col 1, ll 33-36; col 1, ll 43-49).

Regarding Claim 2, Crinion discloses a switching device comprising:

a plurality of physical layer interfaces for transmitting frames to a communication network; (Crinion Figure 8; col 8, ll 26-28; col 5, ll 66-67; col 6, l 66 - col 7, l 3; col 8, ll 17-19; col 8, ll 34-37: MAC (Ethernet) access for data frames, input/output)

Furthermore, Crinion discloses:

a plurality of network access modules, wherein each of said network access

modules comprises a data link layer processor (Crinion Figure 8; col 8, ll 26-28; col 5, ll 66-67; col 6, l 66 - col 7, l 3; col 8, ll 17-19; col 8, ll 34-37: MAC (Ethernet) access for data frames, input/output), wherein each data link layer processor comprises: a plurality of media access controllers, wherein each media access controller is operatively coupled to a physical layer interface (Crinion Figure 8; col 5, ll 66-67; col 6, l 66 - col 7, l 3; col 8, ll 17-19; col 8, ll 34-37: MAC (Ethernet) access for data frames, input and output; interface to physical layer blocks; col 5, ll 42-47: packet buffer (MAC buffer))

Crinion does not explicitly disclose a network processor and a traffic shaper.

However, Hussain discloses:

a network processor for routing the frames towards the physical layer interfaces;

(Hussain col 2, ll 32-36; col 2, ll 41-44: processor utilized to determine a packet flow rate (bandwidth));

a traffic shaper; (Hussain col 9, ll 57-64; col 10, ll 14-16: discards frames that do not conform to bandwidth requirements, rate limit egress (output) flow: must drop packet prior to transmission to output queue or MACs);

said traffic shaper is operatively coupled to said media access controllers, for discarding one or more frames from the network processor that exceeds one or more bandwidth parameters prior to transmission to the media access controllers; (Hussain col 9, ll 57-64; col 10, ll 14-16: discards frames that do not conform to bandwidth requirements, rate limit egress (output) flow: must drop packet prior to transmission to output queue or MACs)

It would have been obvious to one of ordinary skill in the art to modify Crinion for a network processor, traffic shaper, and discarding one or more frames that exceed a bandwidth requirement as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 3, Crinion discloses the switching device of claim 2.

Crinion does not explicitly disclose a traffic shaper discarding frames in accordance with a Three Color Marker (TCM) algorithm.

However, Hussain discloses wherein the traffic shaper discards the one or more frames in accordance with a Three Color Marker (TCM) algorithm. (Hussain col 7, ll 15-19; col 10, ll 1-3: Three Color Marker (TCM) algorithm (RFC 2698) utilized to discard frames based on TCM requirements)

It would have been obvious to one of ordinary skill in the art to modify Crinion for a traffic shaper to discard frames in accordance with a Three Color Marker (TCM) algorithm as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 4, Crinion discloses the switching device of claim 3.

Crinion does not explicitly disclose selecting a TCM algorithm from group consisting of a single rate TCM, a two rate TCM, or a combination.

However Hussain discloses wherein the TCM algorithm is selected from the group consisting of: single rate TCM, two rate TCM, and a combination thereof. (Hussain col 7, ll 15-19; col 10, ll 1-3: TCM: two rate TCM disclosed))

It would have been obvious to one of ordinary skill in the art to modify Crinion for selecting a TCM algorithm from group consisting of a single rate TCM, a two rate TCM, or a combination as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 5, Crinion discloses the switching device of claim 2.

Crinion does not explicitly disclose a traffic shaper comprising meter module and discard control logic.

However, Hussain discloses a traffic shaper comprising:

- a) a meter module for determining a flow rate associated with the frames received from the network processor; (Hussain col 2, ll 32-36; col 2, ll 41-44: processor utilized to determine a packet flow rate (bandwidth)) and
- b) a discard control logic for selectively discarding said one or more frames based upon the flow rate and the one or more bandwidth parameters. (Hussain col 9, ll 57-61; col 10, ll 14-16: drop (discard) frames selectively (based on criteria))

It would have been obvious to one of ordinary skill in the art to modify Crinion for a meter module and discard control logic as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 6, Crinion discloses the switching device of claim 5.

Crinion does not explicitly disclose a marker module.

However, Hussain discloses wherein the traffic shaper further comprises a marker module for marking the plurality of frames in accordance with a TCM algorithm.

(Hussain col 7, ll 15-19; col 10, ll 1-3: mark frames based on TCM algorithm (discard, do not discard))

It would have been obvious to one of ordinary skill in the art to modify Crinion for a marker module as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain in order to enable the capability to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 7, Crinion discloses the switching device of claim 6.

Crinion does not explicitly disclose bandwidth parameters comprising a committed information rate (CIR) and an excess burst size (EBS).

However, Hussain discloses wherein the one or more bandwidth parameters comprise a

committed information rate (CIR) and an excess burst size (EBS). (Hussain col 2, ll 64-67: committed information rate (CIR); col 10, ll 3-8: peak (excess) burst size: equivalent 2 burst sizes (committed, peak (excess))

It would have been obvious to one of ordinary skill in the art to modify Crinion for bandwidth parameters comprising a committed information rate (CIR) and an excess burst size (EBS) as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 8, Crinion discloses the switching device of claim 2.

Crinion does not explicitly disclose classifying frames based upon frame properties. However, Hussain discloses wherein the traffic shaper comprises a flow search engine for classifying frames from the network processor based upon one or more properties associated with the frames. (Hussain col 8, ll 56-62; col 7, ll 62-64: flow classification for packets using header information (properties of packet))

It would have been obvious to one of ordinary skill in the art to modify Crinion for classifying frames based on frame properties as taught by Hussain. One of ordinary skill in the art would have been motivated to employ the teachings of Hussain in order to enable the capability to perform a fair allocation of bandwidth with network packet based metering within a virtual network environment. (Hussain col 1, ll 33-36; col 1, ll 43-49)

Regarding Claim 9, Crinion discloses the switching device of claim 8, wherein the flow search engine comprises a content addressable memory (CAM). (Crinion col 1, ll 52-54; col 2, ll 55-57; col 3, ll 3-4: CAM utilized in data frame processing)

Regarding Claim 10, Crinion discloses the switching device of claim 9, wherein the CAM associated with each of the plurality of data link layer processors consists of QoS rules pertaining to the associated plurality of physical layer interfaces. (Crinion col 1, ll 47-49; col 3, ll 26-27: set priority, determination of quality of service (QoS) for data frame(s))

Regarding Claim 11, Crinion discloses the switching device of claim 2, wherein data link layer processors are media access controller (MAC) processors. (Crinion col 8, ll 26-28; col 5, ll 66-67; col 6, ll 66 - col 7, ll 3; col 8, ll 17-19; col 8, ll 34-37: MAC (Ethernet, 802.3 LAN users) access for data frames)

Regarding Claim 12, Crinion discloses the switching device of claim 2, wherein the switching device is selected from the group consisting of: a router, a multi-layer switching device, and a switch blade. (Crinion col 2, ll 50-51; col 4, ll 45-48: switch (switching device))

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyung Hye Shin whose telephone number is (571)272-3920. The examiner can normally be reached on 9:30 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia L. Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kyung Hye Shin
Examiner
Art Unit 2443

/Kyung Hye Shin/

August 15, 2009